

REMARKS

In the Office Action mailed April 9, 2010, the Examiner rejected claims 1-5, 7, 8, 10, 14-17, 20, 21, 23 and 27-51. By way of the foregoing amendments and the markings to show changes, Applicants have amended claims 1, 3-4, 27, 30-33, 40, 43-44, and 49. Claims 14-17, 20-21, 23, 34-39 and 51 have been cancelled. Claims 1-5, 7-8, 10, 27-33, and 40-50 are currently pending. The foregoing amendments are taken in the interest of expediting prosecution and there is no intention of surrendering any range of equivalents to which Applicant would otherwise be entitled in view of the prior art.

Further, by the present amendment, it does not follow that the amended claims have become so perfect in their description that no one could devise an equivalent. After amendment, as before, limitations in the ability to describe the present invention in language in the patent claims naturally prevent the Applicants from capturing every nuance of the invention or describing with complete precision the range of its novelty or every possible equivalent. See, *Festo Corp. v. Shoketsu Kinzoku Kogyo Kabushiki Co.*, 62 USPQ2d 1705 (2002). Accordingly, the foregoing amendments are made specifically in the interest of expediting prosecution and there is no intention of surrendering any range of equivalents to which Applicants would otherwise be entitled.

Rejection under 35 U.S.C. §112

Claims 1-5, 7, 8, 10, 14-18, 20, 21, 23, 27-39, 43, 44, 49 and 50 have been rejected under 35 U.S.C. §112. In the interest of expediting prosecution, the claims have been amended in response to these rejections.

Rejection under 35 U.S.C. 103

Claims 1-5, 7, 8, 10, 14-18, 20, 21, 23 and 27-50 have been rejected under 35 U.S.C. 103 as allegedly being unpatentable over Ryan in view of Camiener, Glover, Louderback, and Deich.

In response to the Examiner's comment at page 11 of the Office Action dated April 9, 2010 that "claim 19 of Ryan indicates that cells may be preserved by placing them in a solution that contains as little as about 1% DU, i.e. a ratio of about 1:100," Applicant respectfully submits that claim 19 of Ryan does not disclose the ratio of preloaded compounds ("solution" in Ryan) to preloaded compounds ("solution") plus a blood sample of less than 2:100. Ryan discloses blood sample to solution ratios of from about 1:4 to about 2:1, with 1:1 being the most preferred (see

8:35-38 of Ryan). The current claims as amended specify a ratio of total compounds to total compounds plus blood. Ryan very specifically discloses blood to solution ratios as well.

Applicant has also previously submitted information regarding the unexpected results of the claimed low ratios of fixative compounds to blood sample. Applicant submits herewith a Declaration Under 37 CFR 1.132 in support of the claim of unexpected results. The attached declaration demonstrates improved fixation quality of blood samples processed using the methods claimed herein in the claimed ratios as compared to prior art fixative methods in those same claimed ratios. As requested by the Examiner, the attached declaration includes evidence in the form of comparative test results in support of the assertion that, based upon the poor fixation quality of prior art fixatives in the claimed ratios, the improved fixation quality of the present invention in the claimed ratios is unexpected. Based upon the evidence included with the attached declaration in combination with fact that the prior art does not disclose the claimed ratios, Applicant respectfully requests that the current rejection be withdrawn.

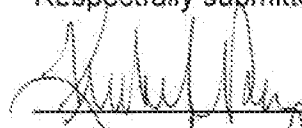
CONCLUSIONS

In view of Applicants' amendments and remarks, the Examiner's rejections are believed to be rendered moot. Accordingly, Applicants submit that the present application is in condition for allowance and requests that the Examiner pass the case to issue at the earliest convenience. Should the Examiner have any question or wish to further discuss this application, Applicant requests that the Examiner contact the undersigned at (248) 292-2920.

If for some reason Applicant has not requested a sufficient extension and/or have not paid a sufficient fee for this response and/or for the extension necessary to prevent the abandonment of this application, please consider this as a request for an extension for the required time period and/or authorization to charge our Deposit Account No. 50-1097 for any fee which may be due.

Respectfully submitted,

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